

November 26, 2007

Patricia A. Kurkul
Regional Administrator
Northeast Region
NMFS, NOAA
One Blackburn Drive
Gloucester, MA 01930-2298

RE: Final Supplemental Environmental Impact Statement (EIS) for Amendment 11
to the Atlantic Sea Scallop Fishery Management Plan CEQ No. 20070438

Dear Ms. Kurkul:

The Environmental Protection Agency (EPA) is providing comments to the National Oceanic and Atmospheric Administration (NOAA), the National Marine Fisheries Service (NMFS), and the New England Fishery Management Council (Council) on the referenced document in accordance with EPA's responsibilities under Section 309 of the Clean Air Act, Section 102(2)(C) of the National Environmental Policy Act (NEPA), and the Council on Environmental Quality's regulations for implementing NEPA. EPA had commented on the draft supplemental EIS for Amendment 11 by letter on June 11, 2007.

Background - An earlier amendment (Amendment 4, implemented in 1994) allowed the Council to provide "open access" that is, any boat owner who wanted to have his boat permitted for scallop fishing may do so, with no specific qualifications being required to receive a general category permit. Although Amendment 4 originally was created to allow incidental catch of scallops, and to let smaller-scale directed scallop operations enter the fishery, this policy now needs revision because of excessive scallop mortality. Strategies designed to reduce scallop fishing capacity and curb mortality are proposed in Amendment 11 and include limiting access for general category scallop permits, catch and trip limitations on general category vessels, catch monitoring provisions and improved integration of scallop resource information into the fishery management process.

Summary of Proposed Action - The proposed action includes limiting the number of boats permitted for general category fishing. Individual vessels that qualify will have an allocation limit of 400 pounds of scallop meat per trip. A separate limited entry permit will allow vessels that are targeting other species of fish (and incidental capture of scallops) will be allowed to retain up 40 pounds of scallop per trip while

fishing for other species. The proposed action includes several other measures related to trawl gear restrictions and a higher possession limit of scallops seaward of the Vessel Monitoring System demarcation line.

EPA defers to NMFS to determine the best management techniques that will achieve fishery objectives. We had requested in our June 11, 2007, letter that NMFS avoid creating “derby” type of fishing conditions whereby an annual total allowable catch is established without daily catch limitations. Also, NMFS was requested to avoid assigning pound allotments or catch limits to individuals, rather than to vessels, thereby creating a “harvesting right” which potentially could become a commodity to be sold or traded. The Amendment 11 Preferred Alternative avoids derby fishing, and assigns catch limits to vessels thereby precluding a sinecure of scallop harvesting rights to individuals. A vessel’s eligibility to enter the fishery will be based upon its past history of scallop landings, a reasonable provision in our view. Other Amendment 11 strategies include limiting entry for general category fishing permits; a hard total allowable catch limit for the general category fishery; incidental catch provisions; and having scallop harvest data rapidly integrated into the management process. This comprehensive suite of management alternatives selected for implementation should have positive impact on the reducing scallop mortality. Impacts on threatened and endangered species, bycatch issues, and public participation processes were satisfactorily addressed.

Thank you for the opportunity to review this action. For more information, please contact John Hamilton at (404) 562-9617.

Sincerely,

Heinz J. Mueller, Chief
NEPA Program Office
Office of Policy and Management

